

REMARKS

Claims 29, 30, 31, 32, and 34 are currently amended and claims 30, 33, and 35 are cancelled. The specification is also amended to include a cross reference to related application section. Attached hereto is certified copies of the provisional applications to which priority is being sought. Claims 29, 31, 32, 34, 36-40, 70-73 and 75-77 are pending.

Claim Objections

Claim 29 is objected to because of "a molecules." Claim 29 is amended to correct the grammatical error.

Claims 29, 32 and 34 are objected to because a plasmid itself cannot be expressed. Those claims are amended to delete the term "plasmid."

Claims 29 and 32 are objected to because of the second "comprising" in line 2 of those claims. Claims 29, 32 and 34 are amended according to the suggestion given in the Office Action.

Claim Rejections

Claims 30 and 31 are rejected under 35 USC 112, second paragraph, as being indefinite based on the limitation "adjuvant" not having antecedent basis. Claim 30 is cancelled and claim 31 is amended to delete that limitation.

Claim Rejections – 35 USC 102

Claims 29-40, 7-73 and 75-77 stand rejected as anticipated by Manthorpe et al (US 2002/0,019,358). In response, the Applicants submit a certified copy of U.S. Provisional Patent Application No. 60/260,806, filed January 10, 2001. This disclosure in the Provisional Application sufficiently describes the claims to comply with the requirements of the first paragraph of 35 USC 112. Such support is found throughout the specification and specifically on pages 21 lines 22-27, page 46 lines 22-28. Therefore, because the filing date of Manthorpe et al is April 23, 2001, removal of this rejection is requested.

Claim Rejections -35 USC 103

Claims 29, 31, 32, 34, 36, 37, 39, 40, 70, 72, 75-77 stand rejected under 35 USC 103 as

being unpatentable over Carson et al (US 5,830,877), in view of Kabanov et al (5,656,611), and as evidenced by Denis-Mize et al (Gene Ther. 2000 Dec; 7:2105-12). Additionally, claims 29, 31, 32, 34, 36, 37, 39, 40, 70, 72, 75-77 also stand under 35 USC 103 as being unpatentable over Mathiowitz et al (US 6,677,313), in view of Kabanov et al (5,656,611), for reasons of record and for the above reasons. Claims 29, 32 and 34 have been amended to incorporate the limitation of claims 30, 33, and 35 respectively. As claims 30, 33 and 35 do not stand rejected for the above reasons, removal of the rejections is requested.

Claims 30, 33, 35, 38, 71, and 73 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Carson et al (US 5,830,877), or Mathiowitz et al (US 6,677,313), and Kabanov et al (5,656,611), further in view of Alakhov et al (6,218,438) or Kabanov et al (6,387,406) or Manthorpe et al (US 2002/0,019,358). The Applicant submit that in view of the priority Manthorpe et al no longer can be relied on as a reference. Additionally, the independent claims 29, 31 and 33 are amended to recite the additional element of "wherein a polynucleotide complex is formed between the polynucleotide, block copolymer and polycationic polymer."

With regard to the motivation to combine Carson et al, or Mathiowitz et al, and Kabanov et al with either Alakhov et al or Kabanov et al ('406) the Office Action asserts that the motivation is solve the problem of enhancing the efficacy of the polynucleotide. The Applicants asserts that combining these references in this manner to arrive at the invention as currently claimed can only be done using impermissible hindsight. Kabanov '406 does not teach formulations for the administration of nucleic acids *or* for the activation of dendritic cells. Alakhov is relates to compositions for HIV therapy comprising metal and metal-chelating agent. A desire to enhance the efficacy of a polynucleotide would not motivate one skilled in the art to look to these references.

Obviousness-Type Double Patenting Rejection

The Applicants respectfully submit that the double patenting issues are each moot in view of amendments to the claims presented herewith. The Applicants, in any event, elect to defer resolution of this issue until the final scope of the pending claims is determined. The Applicants' indeed, however continue to acknowledge their willingness to execute a terminal disclaimer under 37 CFR §1.321(c) if necessary.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should she believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

Dated: September 16, 2005



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